

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Cause No. 1:11-cr-0036 (L/F)
)	
FARON HAYCOCK,)	
)	
Defendant.)	

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

This matter is before the undersigned U. S. Magistrate Judge pursuant to the Order entered by the Honorable William T. Lawrence, Judge, on March 14, 2012, designating the Magistrate Judge on criminal duty to conduct a hearing on the Petition for Summons or Warrant for Offender Under Supervision filed with the Court on March 12, 2012, and to submit to Judge Lawrence proposed Findings of Facts and Recommendation for disposition under Title 18 U.S.C. §§3401(i) and 3583(e). Proceedings were held March 23, 2012 and March 29, 2012 in accordance with Rule 32.1 of the *Federal Rules of Criminal Procedure*.¹

On March 23, 2012, Mr. Haycock appeared in person with his appointed counsel, William Marsh, before Magistrate Judge Denise K. LaRue. The government appeared by Matt Rinka, Assistant United States Attorney, for Brant Cook, Assistant United States Attorney. U. S. Parole

¹ All proceedings are recorded by suitable sound recording equipment unless otherwise noted. *See*, Title 18 U.S.C. §3401(e).

and Probation appeared by Holly Barrineau, U. S. Parole and Probation officer, who participated in the proceedings.

The Court conducted the following procedures in accordance with Rule 32.1(a)(1) *Federal Rules of Criminal Procedure* and Title 18 U.S.C. §3583:

1. William Marsh, the Indiana Federal Community Defender, was present and appointed by the Court to represent Mr. Haycock in regard to the pending Petition for Revocation of Supervised Release.

2. A copy of the Petition for Revocation of Supervised Release was provided to Mr. Haycock and his counsel who informed the Court that they had read and understood the specifications of violations and waived further reading thereof.

3. Mr. Haycock was advised of his right to a preliminary hearing and its purpose in regard to the alleged specified violations of his supervised release contained in the pending Petition.

4. Mr. Haycock was advised he would have a right to question witnesses against him at the preliminary hearing unless the Court, for good cause shown, found that justice did not require the appearance of a witness or witnesses.

5. Mr. Haycock was advised he had the opportunity to appear at the preliminary hearing and present evidence on his own behalf.

6. That if the preliminary hearing resulted in a finding of probable cause that Mr. Haycock had violated an alleged condition or conditions of his supervised release set forth in the Petition, he would be held for a revocation hearing before the undersigned Magistrate Judge, in accordance with Judge Lawrence's designation.

The parties moved to continue the preliminary hearing and detention hearing, and the same is granted. The defendant was detained, pending further proceedings.

On March 29, 2012, Magistrate Judge Kennard P. Foster reviewed prior proceedings held March 23, 2012, before Magistrate Judge Denise K. LaRue, including the defendant's right to a preliminary hearing. Mr. Haycock appeared in person with his appointed counsel, William Marsh. The government appeared by Brant Cook, Assistant United States Attorney; and Troy Adamson, U. S. Parole and Probation officer, appeared and participated in the proceedings. The following proceedings occurred:

1. Mr. Marsh stated that Mr. Haycock would stipulate there is a basis in fact to hold him on the specifications of violations of supervised release set forth in the Petition. Mr. Haycock orally waived the preliminary hearing, which was accepted by the Court.

2. Mr. Haycock, by counsel, stipulated that he committed the specified violations set forth below as in the Petition for Warrant or Summons for an Offender Under Supervision, filed with the Court as follows:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
2	“The defendant shall refrain from the excessive use of alcohol.” On March 2, 2012, a police report was completed by the Richmond, Indiana, Police Department alleging the offender was intoxicated when he committed a Sexual Battery.
3	“The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.”
4	“The defendant shall not purchase, possess, use, distribute, or administer any narcotic substance, or any paraphernalia related to such substances, except as prescribed by a physician. Possession of controlled substances will result in mandatory revocation of your term of supervision.”

On April 11, 2011, the probation officer conducted a search of the offender's residence and found a container of loose pieces of marijuana and a marijuana grinder. Violations 3 and 4 were previously reported to the Court on May 18, 2011.

The Court placed Mr. Haycock under oath and directly inquired of Mr. Haycock whether he admitted violations of the specifications of his supervised release set forth above. Mr. Haycock stated that he admitted the above violations as set forth above. The government moved to dismiss specification numbered 1 contained in the Petition to revoke defendant's supervised release, filed March 12, 2012, and the Court dismissed the same.

Counsel for the parties further stipulated to the following:

- 1) Mr. Haycock has a relevant criminal history category of IV, U.S.S.G. §7B1.4(a).
- 2) The most serious grade of violation committed by Mr. Haycock constitutes a Grade A violation, pursuant to U.S.S.G. §7B1.1(b).
- 3) Pursuant to U.S.S.G. §7B1.4(a) upon revocation of supervised release, the range of imprisonment applicable to Mr. Haycock is 24-30 months.
- 4) The appropriate disposition of the case would be a sentence of 12 months and 1 day in the custody of the Attorney General or his designee, with one year of supervised release to follow, under the same conditions imposed at sentencing.

The Court, having heard the admissions of the defendant, the stipulations of the parties, and the arguments and discussions on behalf of each party, **NOW FINDS** that the defendant, Faron Haycock, violated the specified conditions of supervised release as delineated above in the Petition

to Revoke his supervised release. The defendant's supervised release is therefore **REVOKED** as set forth above. It is recommended that Mr. Haycock serve his sentence in the Farm Camp at United States Penitentiary at Marion, Illinois.

The Magistrate Judge requests that Troy Adamson, U. S. Parole and Probation officer, prepare for submission to the Honorable William T. Lawrence, Judge, as soon as practicable, a supervised released revocation judgment, in accordance with these findings of facts, conclusions of law and recommendation.

Counsel for the parties and Mr. Haycock stipulated in open court waiver of the following:

1. Notice of the filing of the Magistrate Judge's Report and Recommendation;
2. Objection to the Report and Recommendation of the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §636(b)(1)(B); Rule 72(b), *Federal Rules of Civil Procedure*, and S.D.Ind.L.R.72.1(d)(2), *Local Rules of the U.S. District Court for the Southern District of Indiana*.

Counsel for the parties and Mr. Haycock entered the above stipulations and waivers after being notified by the undersigned Magistrate Judge that the District Court may refuse to accept the stipulations and waivers and conduct a revocation hearing pursuant to Title 18 U.S.C. §3561 *et seq.* and Rule 32.1 of the *Federal Rules of Criminal Procedure* and may reconsider the Magistrate Judge's Report and Recommendation, including making a *de novo* determination of any portion of the Report or specified proposed findings or recommendation upon which he may reconsider.

WHEREFORE, the U. S. Magistrate Judge **RECOMMENDS** the Court adopt the above recommendation revoking Faron Haycock's supervised release.

IT IS SO RECOMMENDED this 29th day of March, 2012.

A handwritten signature in black ink, appearing to read 'KF 3/29/12', is positioned above a horizontal line.

Kennard P. Foster, Magistrate Judge
United States District Court
Southern District of Indiana

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U. S. Marshal